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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,320	02/15/2001	D. Wade Walke	LEX-0137-USA	3185

24231 7590 11/28/2001
LEXICON GENETICS INCORPORATED
4000 RESEARCH FOREST DRIVE
THE WOODLANDS, TX 77381

EXAMINER

RAMIREZ, DELIA M

ART UNIT PAPER NUMBER

1652

DATE MAILED: 11/28/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/783,320	Applicant(s) WALKE ET AL.	
	Examiner Delia M. Ramirez	Art Unit 1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claims 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- | | |
|---|--|
| 15) <input type="checkbox"/> Notice of References Cited (PTO-892) | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 20) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a polynucleotide according to SEQ ID NO: 1 and a polynucleotide encoding the polypeptide of SEQ ID NO: 2, classified in class 536, subclass 23.2.
- II. Claim 4, drawn to a polynucleotide encoding the polypeptide of SEQ ID NO: 4, classified in class 536, subclass 23.2.
- III. Claim 5, drawn to a polynucleotide encoding the polypeptide of SEQ ID NO: 6, classified in class 536, subclass 23.2.
- IV. Claims 6-8, drawn to a polynucleotide according to SEQ ID NO: 45 and a polynucleotide encoding the polypeptide of SEQ ID NO: 46, classified in class 536, subclass 23.2.
- V. Claim 9, drawn to a polynucleotide encoding the polypeptide of SEQ ID NO: 38, classified in class 536, subclass 23.2.
- VI. Claim 10, drawn to a polynucleotide encoding the polypeptide of SEQ ID NO: 30, classified in class 536, subclass 23.2.

The inventions are distinct, each from the other because of the following reasons:

Groups I-VI are directed to different products related by virtue of encoding polypeptides with kinase activity. However, they are patentably distinct inventions for the following reasons.

Groups I-VI are directed to different nucleic acid molecules with different sequences, structures,

and use, are not required one for the other, and encode a different polypeptide with unrelated amino acid sequences. Furthermore, a search and examination of all these Groups would result in an undue burden since the searches are not co-extensive. Accordingly, restriction is deemed proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement can be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Certain papers related to this application may be submitted to Art Unit 1652 by facsimile transmission. The FAX number is (703) 308-4556. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If Applicant submits a paper by FAX, the original copy should be retained by Applicant or Applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (703) 306-0288. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

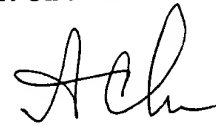
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (703) 308-3804. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

DR
November 16, 2001

Delia M. Ramirez, Ph.D.
Patent Examiner
Art Unit 1652



PONNATHAPU ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600